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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91184197
Party	Plaintiff United Parcel Service of America, Inc.
Correspondence Address	Stephen M. Schaetzel King & Spalding LLP 1180 Peachtree Street N.E. Atlanta, GA 30309 UNITED STATES sschaetzel@kslaw.com, jsheesley@kslaw.com, efox@kslaw.com, trademarks@kslaw.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Stephen M. Schaetzel
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Signature	/ss/
Date	06/23/2009
Attachments	Notice of Reliance.pdf (3 pages)(9653 bytes) Exh. 1.pdf (1 page)(515749 bytes) Powertech's Response to UPS's First Interrogatories 4-16-09.pdf (17 pages)(510080 bytes) Exh. 2.pdf (1 page)(826735 bytes) Powertech's Response to UPS's First RFAs 4-16-09.pdf (34 pages)(820817 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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UNITED PARCEL SERVICE OF AMERICA, INC.,	:	
Opposer,	:	
v.	:	Opposition No. 91184197
POWERTECH INDUSTRIAL CO. LTD.,	:	
Applicant.	:	

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OPPOSER’S NOTICE OF RELIANCE

Pursuant to Section 2.120(j)(3)(i) of the Trademark Rules of Practice, Opposer United Parcel Service of America, Inc. (“Opposer”) hereby identifies and files herewith the documents listed below as and for its Notice of Reliance. Opposer reserves the right to amend and/or supplement this Notice of Reliance as additional information becomes available and/or in the event the Board grants Opposer’s Motion to Extend Testimony Period and/or Opposer’s Motion to Amend Notice of Opposition filed contemporaneously herewith.

1. Applicant’s Answer to Opposer’s First Set of Interrogatories to Applicant, dated April 13, 2009, and attached hereto as Exhibit 1;
2. Applicant’s Response to Opposer’s First Request for Admissions, dated April 16, 2009, and attached hereto as Exhibit 2.

Dated: June 23, 2009

Respectfully submitted,

/Stephen M. Schaetzel/

Stephen M. Schaetzel
John P. Sheesley
Elizabeth M. Fox

KING & SPALDING LLP
1180 Peachtree Street, N.E.
Atlanta, Georgia 30309-3521
Telephone: (404) 572-4600
Facsimile: (404) 572-5100

Attorneys for Opposer
UNITED PARCEL SERVICE OF
AMERICA, INC.

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing Opposer's Notice of Reliance was served this day via electronic mail, pursuant to agreement, addressed to:

Morton J. Rosenberg
ROSENBERG, KLEIN AND LEE
rkl@rkllpatlaw.com

This 23rd day of June, 2009.

/Stephen M. Schaetzel/
Stephen M. Schaetzel

EXHIBIT 1

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

United Parcel Service of America, Inc., :

Opposer, : Opposition No. 91184197

v. :

Powertech Industrial Co., Ltd., :

Applicant. :

APPLICANT'S ANSWER TO OPPOSER'S FIRST SET OF
INTERROGATORIES TO APPLICANT

Applicant, Powertech Industrial Co., Ltd. ("Powertech") by its undersigned attorney for its Answers to Opposer's First Set of Interrogatories respectfully states as follows:

General Objections

Powertech sets forth the following general objections, which are made to each and every interrogatory, whether specifically stated in response thereto. Each is incorporated by reference within the specific objection for each interrogatory as if set forth separately therein.

(1) Powertech objects to these interrogatories to the extent that they impose any requirements in excess of those imposed by the Federal Rules of Civil Procedure.

(2) Powertech objects to these interrogatories to the extent that these requests are not reasonably calculated to lead to the discovery of admissible evidence.

(3) Powertech objects to these interrogatories to the extent that these requests require the disclosure of information or documents that are subject to the attorney-client privilege or protected from disclosure by the Work Product Doctrine or other applicable privileges.

(4) Powertech objects to these interrogatories to the extent that these requests seek documents equally available to Opposer or are already in Opposer's possession.

(5) Powertech objects to these interrogatories to the extent that they are overly broad and unduly burdensome.

(6) Powertech objects to these interrogatories to the extent that the information sought is confidential or proprietary.

(7) Powertech objects to these interrogatories to the extent that they call for release of a third parties confidential or proprietary information or identification of a third party's documents that are in Powertech's possession and are the subject of a non-disclosure agreement or other confidentiality requirement.

Interrogatory No. 1:

Describe in detail all products and services that Applicant has offered and provided, or intends to offer or provide, under the Proposed Mark.

Answer to Interrogatory No. 1:

Objection to Interrogatory No. 1: See General Objections. Applicant further objects to this interrogatory to the extent that it is requiring speculative information to be provided which Applicant is not aware at the present time.

Subject to and without waiving its previously stated objections, Applicant answers Interrogatory No. 1 as follows:

Applicant has not offered and provided any products and services under the proposed mark "HYBRID GREEN UPS".

Applicant intends to offer or provide the goods as indicated in the examined trademark application, Serial No. 77/176,134, namely, power supplies; mobile phone battery chargers; mobile phone battery charger stations; battery chargers; universal power supply; power saving adapters; electric storage batteries; uninterruptible power supplies; AC/DC converters; power source stable adapters.

Interrogatory No. 2:

For each product or service identified in response to Interrogatory No. 1, state whether Applicant has provided or sold such product or service in interstate commerce and, if so, state the date on which such Applicant first provided such

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product or service to a customer, and identify the geographic areas of the United States in which Applicant has used the Proposed Mark on or in connection with such products and services since the date of first use.

Answer to Interrogatory No. 2:

Objection to Interrogatory No. 2: See General Objections. Further, Applicant objects to the speculative nature of the interrogatory in relation to Applicant's intent to offer or provide products in the future since Applicant is not aware of what further products may be offered or provided under the proposed mark.

Subject to and without waiving the previously stated objections, Applicant answers Interrogatory No. 2 as follows:

None.

Interrogatory No. 3:

Describe in detail all facts and circumstances surrounding Applicant's decision to select, adopt, and use or intent to use the Proposed Mark, and identify all persons who first suggested use of the Proposed Mark.

Answer to Interrogatory No. 3:

Objection to Interrogatory No. 3: See General Objections.

The person who first suggested use of the proposed mark is Mr. Sheng-Hsien Liao, having an address at No. 2, Alley 20, Lane 199, Sanjyun Street, Shulin City, Taipei County, Taiwan, R.O.C.

The term "HYBRID" was simply chosen for use as a convenient word which could apply to the various goods as listed in the allowed application, Serial No. 77/176,134. The word "GREEN" was believed to be a word which shows some type of environmental friendliness. The letters "UPS" are directed to uninterruptible power supplies which is one of the main products to be offered by Applicant.

Interrogatory No. 4:

State whether Applicant conducted or caused to be conducted a search or any other investigation to determine whether the Proposed Mark was available in connection with its adoption of said mark. If so, describe the results or conclusions of said investigation, identify each and every person having knowledge of the results of such investigations, and identify all documents embodying or relating to such search or investigation.

Answer to Interrogatory No. 4:

Objection to Interrogatory No. 4: See General Objections.

Subject to and without waiving its previously stated objections, Applicant answers Interrogatory No. 4 as follows:

Applicant searched the term "HYBRID" in Class 9 on the TESS and no similar mark was found. The additional wording "GREEN" was added to the word "HYBRID" to provide some environmentally friendly connotation. The term "UPS" was simply added as an abbreviation of Applicant's "uninterruptible

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power supplies” wherein the use of “UPS” is a standard abbreviation for uninterruptible power supplies.

The person who has knowledge of the results of such investigation is Mr. Sheng-Hsien Liao, who is the President of Polymax Precision Industry Co., Ltd. and Yu-Lung Lee, Assistant General Manager of Applicant.

With regard to existing documents embodying or relating to this search or investigation, Applicant has found no documents associated with the search or investigation, however, Applicant will continue to search its records to see if any documents exist.

Interrogatory No. 5:

State when Applicant first became aware of any of Opposer’s Marks as used by Opposer.

Answer to Interrogatory No. 5:

Applicant first became aware of Opposer’s marks as used by Opposer at the time that Applicant’s U.S. attorney informed Applicant of the subject Opposition No. 91184197.

Interrogatory No. 6:

Identify all communications, whether written or oral, relating to Applicant’s knowledge of the use by Opposer of Opposer’s Marks, including all communications and contact with Opposer relating to Applicant’s Goods.

Answer to Interrogatory No. 6:

Objection to Interrogatory No. 6: See General Objections. Applicant further objects to this interrogatory to the extent that it is overly broad and burdensome in that all employees of Applicant may have some knowledge of United Parcel Service or "UPS".

Subject to and without waiving its previously stated objections, Applicant answers Interrogatory No. 6 as follows:

Applicant has included communications and contact with the Opposer through Applicant's attorney relating to Applicant's goods in relation to the subject Opposition 91184197. Additionally, Applicant is aware of communications and contact with Opposer relating to Applicant's goods with regard to Taiwan Opposition No. 09780677120 brought by the Opposer.

Interrogatory No. 7:

Identify all communications, whether written or oral, between Applicant and any other person relating to Opposer or Opposer's Marks.

Answer to Interrogatory No. 7:

Objection to Interrogatory No. 7: See General Objections. Applicant further objects to this interrogatory to the extent that it requires information which is protected by the attorney/client privilege.

Subject to and without waiving previously stated objections, Applicant answers Interrogatory No. 7 as follows:

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Applicant has not communicated, whether written or oral, with any other person relating to Opposer or Opposer's marks with the exception of Applicant's attorneys in relation to the subject opposition before the U.S. Trademark Trial and Appeal Board and Taiwan Opposition No. 09780677120.

Interrogatory No. 8:

Identify all persons whom Applicant intends to call during the testimony period of this opposition and summarize the subject matter on which each such person will testify.

Answer to Interrogatory No. 8:

Objection to Interrogatory No. 8: See General Objections. Applicant further objects to this interrogatory to the extent that it is speculative in nature.

Subject to and without waiving its previously stated objections, Applicant answers Interrogatory No. 8 as follows:

None.

Interrogatory No. 9:

State whether Applicant, or any person(s) acting on Applicant's behalf, has conducted or authorized any other person to conduct a survey, investigation, study, or market test (hereinafter "Survey") relating to either the Proposed Mark or the product(s) sold under said mark, and if so, identify:

- (a) each person that was or is in charge of conducting each Survey;

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(b) each report or summary of the results thereof, and, if oral, state the contents thereof, identify the persons making and receiving such report or summary, and each person having knowledge thereof.

Answer to Interrogatory No. 9:

Objections to Interrogatory No. 9: See General Objections.

Subject to and without waiving its previously stated objections, Applicant's answers Interrogatory No. 9 as follows:

None.

Interrogatory No. 10:

Other than the instant proceeding, describe in detail all disputes, disagreements, or controversies between Applicant and any party concerning the adoption or use of any trademark concerning the mark "UPS."

Answer to Interrogatory No. 10:

Other than the instant proceeding, the only other disputes, disagreements or controversies between Applicant and any party concerning the adoption or use of any trademark concerning the mark "UPS", are with Opposer who has brought an opposition in Taiwan with regard to the mark "UPS".

Interrogatory No. 11:

State all facts upon which Applicant bases its denials of Paragraphs 12, 13, 14, and 18 of Opposer's May 19, 2008 Notice of Opposition, as set forth in Paragraphs 12, 13, 14, and 18 of Applicant's June 24, 2008 Answer.

Answer to Interrogatory No. 11:

Objection to Interrogatory No. 11: See General Objections.

Subject to and without waiving it previously stated objections, Applicant answers Interrogatory No. 11 as follows:

With regard to the Notice of Opposition as set forth in paragraph 12: Applicant believes that Applicant's mark "HYBRID GREEN UPS" includes the dominant portion of the mark "HYBRID GREEN" and that the "UPS" is a standard abbreviation for uninterruptible power supplies, which is one of the main products envisioned by Applicant for sale with the letters "UPS" being descriptive of the goods.

With regard to paragraph 13: the dominant portion of Applicant's mark is "HYBRID GREEN" with the letters "UPS" being an abbreviation of uninterruptible power supplies and potential purchasers of Applicant's goods would not believe the opposer is the source of such goods either authorized, sponsored, approved of, or in some other manner being associated with the goods of Opposer.

With regard to paragraph 14 of the Notice of Opposition, the words "HYBRID GREEN" are the dominant portion of Applicant's mark and the "UPS"

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is a standard abbreviation for uninterruptible power supplies and thus, does not suggest a connection or affiliation between Opposer and Applicant.

With regard to paragraph 18, Applicant has never been aware of Opposer using the word “HYBRID GREEN” and since “UPS” is descriptive of Applicant’s proposed goods, such is not believed to lessen the capacity of Opposer’s UPS mark for distinguishability of Opposer’s goods and services from those of others.

Interrogatory No. 12:

Identify all documents and things evidencing Applicant’s bona fide intention to use the Proposed Mark in commerce, as of the filing date of the application, for each product listed in the Application.

Answer to Interrogatory No. 12:

Objection to Interrogatory No. 12: See General Objections.

Subject to and without waiving its previously stated objections, Applicant answers Interrogatory No. 12 as follows:

None.

Interrogatory No. 13:

State the dates of Applicant’s actual or intended first use and actual or intended first use in commerce for the Proposed Mark.

Answer to Interrogatory No. 13:

Objection to Interrogatory No. 13: See General Objections. Applicant further objects to this interrogatory to the extent that it requires information which is speculative in nature.

Subject to and without waiving its previously stated objections, Applicant answers Interrogatory No. 13 as follows:

Applicant has not had any actual first use and no actual first use in commerce of the proposed mark. Applicant has not set a date for its planned first use or first use in commerce.

Interrogatory No. 14:

For each product and/or service identified in answer to Interrogatory No. 1, identify each advertisement for such product and/or service that has been, or is intended to be, published, broadcast, or displayed on behalf of Applicant and that included the Proposed Mark, and for each such advertisement:

- (a) state the date on which it was or will be published, broadcast, displayed or distributed;
- (b) if a print media advertisement, identify the publication in which such advertisement appeared or will appear by name, date, and page number; and
- (c) if a broadcast advertisement, identify the radio or television station or network over which such advertisement was or will be broadcast and state the length of the commercial and the date and time of broadcast.

Answer to Interrogatory No. 14:

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Objection to Interrogatory No. 14: See General Objections.

Subject to and without waiving its previously stated objections, Applicant answers Interrogatory No. 14 as follows:

None.

Interrogatory No. 15:

Identify all press releases, catalogs, leaflets, brochures, signs, and other sales or promotional materials that have been, are, or are intended to be distributed or displayed in the United States by or on behalf of Applicant and that included the Proposed Mark, and for each such item:

(a) state each date on which, or the inclusive dates during which, said item was or is to be distributed and the manner in which said item was or is to be distributed; and

(b) state the geographic area (by city, county or state) where said item or copies thereof were or will be distributed or displayed.

Answer to Interrogatory No. 15:

Objection to Interrogatory No. 15: See General Objections. Applicant further objects to this interrogatory to the extent that it requires information which is speculative.

Subject to and without waiving its previously stated objections, Applicant answers Interrogatory No. 15 as follows:

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No press releases, catalogs, leaflets, brochures, signs and other sales or promotional materials have been distributed or displayed in the United States by or on behalf of Applicant that included the proposed mark. Applicant does not know what types of press releases, catalogs, leaflets, brochures, signs and other sales or promotional materials will be distributed or displayed in the United States in the future.

Interrogatory No. 16:

For each product and/or service identified in answer to Interrogatory No. 1, state whether you have promoted such product and/or service at any conventions, trade shows, or exhibitions, or have any plans to do so, and if so, state the title, date, and location of each such convention, trade show, or exhibition.

Answer to Interrogatory No. 16:

None.

Interrogatory No. 17:

Identify each expert witness whose testimony Applicant may or will rely upon in connection with any issue in this Opposition proceeding and with respect to each such witness state:

- (a) the subject matter on which he or she is expected to testify, and;
- (b) state the substance of the facts and opinions on which the expert is expected to testify, and summarize the ground for each opinion.

Answer to Interrogatory No. 17:

Applicant has no plans at the present time to provide expert witness testimony in this proceeding.

Interrogatory No. 18:

Identify each person who (a) provided information used in or (b) prepared or participated in preparing the following:

- (i) the Application;
- (ii) the Answer; and
- (iii) any answer to any Interrogatory above.

Answer to Interrogatory No. 18:

(i) With respect to the application, information used in preparing or participating in the preparation of the application was:

Morton J. Rosenberg, Esq.
Rosenberg, Klein & Lee
3458 Ellicott Center Drive, Suite 101
Ellicott City, Maryland 21043
Attorney for Applicant

Yu-Lung Lee, Assistant General Manager
Powertech Industrial Co., Ltd.
10F., No. 407, Sec. 2, Chunshan Rd., Chungho City
Taipei Hsien, Taiwan, R.O.C.

Yu-Ching Li
Li & Cai Intellectual Property Co., Ltd.
P.O. Box 26-757
Taipei, Taiwan, R.O.C. 106

(ii) The person with respect to the Answer:

Morton J. Rosenberg, Esq. (responsive to answers provide by Yu-Lung Lee)
Rosenberg, Klein & Lee
3458 Ellicott Center Drive, Suite 101
Ellicott City, Maryland 21043
Attorney for Applicant

Yu-Lung Lee, Assistant General Manager
Powertech Industrial Co., Ltd.
10F., No. 407, Sec. 2, Chunshan Rd., Chunggho City
Taipei Hsien, Taiwan, R.O.C.

(iii) With respect to the Answers to Interrogatories No. 1-18:

Yu-Lung Lee, Assistant General Manager
Powertech Industrial Co., Ltd.
10F., No. 407, Sec. 2, Chunshan Rd., Chunggho City
Taipei Hsien, Taiwan, R.O.C.

Answers have further been submitted to Applicant's attorney:

Morton J. Rosenberg, Esq.
Rosenberg, Klein & Lee
3458 Ellicott Center Drive, Suite 101
Ellicott City, Maryland 21043
Attorney for Applicant

Respectfully submitted,
FOR: POWERTECH INDUSTRIAL CO., LTD.

Apr. 13, 2009
Date

Yu-Lung Lee
Yu-Lung Lee, Assistant General Manager

For: ROSENBERG, KLEIN & LEE

Morton J. Rosenberg
Morton J. Rosenberg
3458 Ellicott Center Drive, Suite 101
Ellicott City, MD 21043
(Attorney for Applicant)

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CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing ANSWER TO OPPOSER'S FIRST INTERROGATORIES TO APPLICANT was served this day via first class mail, postage prepaid to: Steven M. Schaetzel, Esq., King and Spalding, LLP, 1180 Peachtree Street, N.E., Atlanta, Georgia 30309-3521.

4/16/09
Dated

Morton J. Rosenberg
Morton J. Rosenberg

EXHIBIT 2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

UNITED PARCEL SERVICE OF AMERICA, INC. :

Opposer, :

: Opposition No. 91184197

v.

POWERTECH INDUSTRIAL CO., LTD. :

Applicant :

APPLICANT'S RESPONSE TO OPPOSER'S
FIRST REQUEST FOR ADMISSIONS

Applicant, Powertech Industrial Co., Ltd., by counsel, for its Responses to
Opposer's First Request for Admissions, respectfully states the following:

Request for Admission No. 1:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark
identified in U.S. Reg. No. 514,285.

Answer to Request for Admission No. 1:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007
but was not aware of any ownership of the letters "UPS" and was not aware of
Registration No. 514,285 and thus must deny.

Request for Admission No. 2:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 966,774

Answer to Request for Admission No. 2:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 966,774 and thus must deny.

Request for Admission No. 3:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 1,277,400.

Answer to Request for Admission No. 3:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 1,277,400 and thus must deny.

Request for Admission No. 4:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 1,375,109.

Answer to Request for Admission No. 4:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 1,375,109 and thus must deny.

Request for Admission No. 5:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 1,874,248.

Answer to Request for Admission No. 5:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 1,874,248 and thus must deny.

Request for Admission No. 6:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 1,876,943.

Answer to Request for Admission No. 6:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 1,876,943 and thus must deny.

Request for Admission No. 7:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 1,878,016.

Answer to Request for Admission No. 7:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 1,878,016 and thus must deny.

Request for Admission No. 8:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 1,878,918.

Answer to Request for Admission No. 8:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 1,878,918 and thus must deny.

Request for Admission No. 9:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 2,098,168.

Answer to Request for Admission No. 9:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 2,098,168 and thus must deny.

Request for Admission No. 10:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 2,128,739.

Answer to Request for Admission No. 10:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 2,128,739 and thus must deny.

Request for Admission No. 11:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 2,278,090.

Answer to Request for Admission No. 11:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 2,278,090 and thus must deny.

Request for Admission No. 12:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 2,582,489.

Answer to Request for Admission No. 12:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 2,582,489 and thus must deny.

Request for Admission No. 13:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 2,830,249.

Answer to Request for Admission No. 13:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 2,830,249 and thus must deny.

Request for Admission No. 14:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 2,483,193.

Answer to Request for Admission No. 14:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 2,483,193 and thus must deny.

Request for Admission No. 15:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 3,160,062.

Answer to Request for Admission No. 15:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 3,160,062 and thus must deny.

Request for Admission No. 16:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 2,520,558.

Answer to Request for Admission No. 16:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 2,520,558 and thus must deny.

Request for Admission No. 17:

On or before May 9, 2007, Applicant was aware of UPS's use of the mark identified in U.S. Reg. No. 2,973,108.

Answer to Request for Admission No. 17:

Applicant was aware of the use of the letters "UPS" prior to 9 May 2007 but was not aware of any ownership of the letters "UPS" and was not aware of Registration No. 2,973,108 and thus must deny.

Request for Admission No. 18:

UPS is the owner of U.S. Reg. No. 514,285 for the mark UPS THE DELIVERY SYSTEM FOR STORES OF QUALITY SINCE 1907 & Design.

Answer to Request for Admission No. 18:

Applicant admits that the USPTO website shows Registration No. 514,285 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 19:

UPS is the owner of U.S. Reg. No. 966,774 for the mark UPS.

Answer to Request for Admission No. 19:

Applicant admits that the USPTO website shows Registration No. 966,774 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 20:

UPS is the owner of U.S. Reg. No. 1,277,400 for the mark UPS 2ND DAY AIR & Design.

Answer to Request for Admission No. 20:

Applicant admits that the USPTO website shows Registration No. 1,277,400 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 21:

UPS is the owner of U.S. Reg. No. 1,375,109 for the mark UPS NEXT DAY AIR & Design.

Answer to Request for Admission No. 21:

Applicant admits that the USPTO website shows Registration No. 1,375,109 being registered by the Opposer; however, Applicant does not know the

ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 22:

UPS is the owner of U.S. Reg. No. 1,874,248 for the mark UPS PREFERRED.

Answer to Request for Admission No. 22:

Applicant admits that the USPTO website shows Registration No. 1,874,248 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 23:

UPS is the owner of U.S. Reg. No. 1,876,943 for the mark UPS PREFERRED and Design.

Answer to Request for Admission No. 23:

Applicant admits that the USPTO website shows Registration No. 1,876,943 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 24:

UPS is the owner of U.S. Reg. No. 1,878,016 for the mark UPS NEXT DAY AIR.

Answer to Request for Admission No. 24:

Applicant admits that the USPTO website shows Registration No. 1,878,016 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 25:

UPS is the owner of U.S. Reg. No. 1,878,918 for the mark UPS 2ND DAY AIR.

Answer to Request for Admission No. 25:

Applicant admits that the USPTO website shows Registration No. 1,878,918 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 26:

UPS is the owner of U.S. Reg. No. 2,098,168 for the mark UPS TRACKPAD.

Answer to Request for Admission No. 26:

Applicant admits that the USPTO website shows Registration No. 2,098,168 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 27:

UPS is the owner of U.S. Reg. No. 2,128,739 for the mark UPS ONLINE.

Answer to Request for Admission No. 27:

Applicant admits that the USPTO website shows Registration No. 2,128,739 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 28:

UPS is the owner of U.S. Reg. No. 2,278,090 for the mark UPS & Design.

Answer to Request for Admission No. 28:

Applicant admits that the USPTO website shows Registration No. 2,278,090 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 29:

UPS is the owner of U.S. Reg. No. 2,582,489 for the mark UPS ONLINE ENVOY.

Answer to Request for Admission No. 29:

Applicant admits that the USPTO website shows Registration No. 2,582,489 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 30:

UPS is the owner of U.S. Reg. No. 2,830,249 for the mark UPS INTERNET TOOLS.

Answer to Request for Admission No. 30:

Applicant admits that the USPTO website shows Registration No. 2,830,249 being registered by the Opposer; however, Applicant does not know of the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 31:

UPS is the owner of U.S. Reg. No. 2,483,193 for the mark UPS.COM.

Answer to Request for Admission No. 31:

Applicant admits that the USPTO website shows Registration No. 2,483,193 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 32:

UPS is the owner of U.S. Reg. No. 3,160,062 for the mark UPS WORLDSHIP.

Answer to Request for Admission No. 32:

Applicant admits that the USPTO website shows Registration No. 3,160,062 being registered by the Opposer; however, Applicant does not know the

ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 33:

UPS is the owner of U.S. Reg. No. 2,520,558 for the mark UPS.

Answer to Request for Admission No. 33:

Applicant admits that the USPTO website shows Registration No. 2,520,558 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 34:

UPS is the owner of U.S. Reg. No. 2,973,108 for the mark UPS & Design.

Answer to Request for Admission No. 34:

Applicant admits that the USPTO website shows Registration No. 2,973,108 being registered by the Opposer; however, Applicant does not know the ownership of the mark of the Registration at the present time and therefore must deny same.

Request for Admission No. 35:

Prior to May 9, 2007, Applicant had not yet used the Proposed Mark.

Answer to Request for Admission No. 35:

Admitted.

Request for Admission No. 36:

Prior to May 9, 2007, Applicant had not yet used the Proposed Mark in commerce.

Answer to Request for Admission No. 36:

Admitted.

Request for Admission No. 37:

Prior to May 9, 2007, Applicant did not have a bona fide intention to use the Proposed Mark in commerce.

Answer to Request for Admission No. 37:

Applicant did have and does have a bona fide intention to use the Proposed Mark in commerce prior to May 9, 2007 and at the present time and thus denies.

Request for Admission No. 38:

Applicant has not yet used the Proposed Mark.

Answer to Request for Admission No. 38:

Admitted.

Request for Admission No. 39:

Applicant has not yet used the Proposed Mark in commerce.

Answer to Request for Admission No. 49:

Admitted.

Request for Admission No. 40:

Applicant Goods and Services include: power supplies; mobile phone battery chargers; mobile phone battery charger stations; battery chargers; universal power supplies; power saving adapters; electric storage batteries; uninterruptible power supplies; AC/DC converters; power source stable adapters.

Answer to Request for Admission No. 40:

Admitted.

Request for Admission No. 41:

Applicant does not have a bona fide intention to use the Proposed Mark in connection with power supplies.

Answer to Request for Admission No. 41:

Applicant does have a bona fide intention to use the Proposed Mark in connection with power supplies and therefore must deny.

Request for Admission No. 42:

Applicant does not have a bona fide intention to use the Proposed Mark in connection with mobile phone battery chargers.

Answer to Request for Admission No. 42:

Applicant does have a bona fide intention to use the Proposed Mark in connection with mobile phone battery chargers and therefore must deny.

Request for Admission No. 43:

Applicant does not have a bona fide intention to use the Proposed Mark in connection with mobile phone battery charger stations.

Answer to Request for Admission No. 43:

Applicant does have a bona fide intention to use the Proposed Mark in connection with mobile phone battery charger stations and therefore must deny.

Request for Admission No. 44:

Applicant does not have a bona fide intention to use the Proposed Mark in connection with battery chargers.

Answer to Request for Admission No. 44:

Applicant does have a bona fide intention to use the Proposed Mark in connection with battery chargers and therefore must deny.

Request for Admission No. 45:

Applicant does not have a bona fide intention to use the Proposed Mark in connection with universal power supplies.

Answer to Request for Admission No. 45:

Applicant does have a bona fide intention to use the Proposed Mark in connection with universal power supplies and therefore must deny.

Request for Admission No. 46:

Applicant does not have a bona fide intention to use the Proposed Mark in connection with power saving adapters.

Answer to Request for Admission No. 46:

Applicant does have a bona fide intention to use the Proposed Mark in connection with power saving adapters and therefore must deny.

Request for Admission No. 47:

Applicant does not have a bona fide intention to use the Proposed Mark in connection with electric storage batteries.

Answer to Request for Admission No. 47:

Applicant does have a bona fide intention to use the Proposed Mark in connection with electric storage batteries and therefore must deny.

Request for Admission No. 48:

Applicant does not have a bona fide intention to use the Proposed Mark in connection with uninterruptible power supplies.

Answer to Request for Admission No. 48:

Applicant does have a bona fide intention to use the Proposed Mark in connection with uninterruptible power supplies and therefore must deny.

Request for Admission No. 49:

Applicant does not have a bona fide intention to use the Proposed Mark in connection with AC/DC converters.

Answer to Request for Admission No. 49:

Applicant does have a bona fide intention to use the Proposed Mark in connection with AC/DC converters and therefore must deny.

Request for Admission No. 50:

Applicant does not have a bona fide intention to use the Proposed Mark in connection with power source stable adapters.

Answer to Request for Admission No. 50:

Applicant does have a bona fide intention to use the Proposed Mark in connection with power source stable adapters and therefore must deny.

Request for Admission No. 51:

Applicant does not have any documents or things evidencing its bona fide intention to use the Proposed Mark in commerce.

Answer to Request for Admission No. 51:

Applicant did provide a Declaration with the filing of the Proposed Mark Trademark Application and therefore must deny.

Request for Admission No. 52:

Applicant's Goods to be offered under the Proposed Mark are intended to be energy efficient.

Answer to Request for Admission No. 52:

It is always hoped by Applicant that the goods that it produces are "energy efficient" and therefore must admit.

Request for Admission No. 53:

Applicant's Goods to be offered under the Proposed Mark are intended to use less energy than otherwise comparable goods.

Answer to Request for Admission No. 53:

Applicant has not made a specific investigation as to the use of less energy than otherwise comparable goods and although Applicant hopes that it uses less energy than otherwise comparable goods, Applicant to that extent admits.

Request for Admission No. 54:

Applicant's Goods to be offered under the Proposed Mark are intended to be beneficial to the environment.

Answer to Request for Admission No. 54:

Applicant certainly hopes that the goods offered under the Proposed Mark will be beneficial to the environment and therefore to that extent admits.

Request for Admission No. 55:

Applicant's Goods to be offered under the Proposed Mark are intended to appear to be beneficial to the environment.

Answer to Request for Admission No. 55:

It is intended that Applicant's goods to be offered under the Proposed Mark would appear to be beneficial to the environment and to this extent admits.

Request for Admission No. 56:

Applicant's Goods to be offered under the Proposed Mark are for use with more than one type of power output.

Answer to Request for Admission No. 56:

Admit.

Request for Admission No. 57:

Applicant's Goods may be offered through the same channels of trade as Opposer's Goods and Services.

Answer to Request for Admission No. 57:

Applicant is without knowledge as to the channels of trade of Opposer's goods and services and further has not developed any channels of trade since this is an Intent To Use mark and no channels of trade have been established and therefore must deny same.

Request for Admission No. 58:

Applicant's Goods are targeted to the same consumers as Opposer's Goods and Services.

Answer to Request for Admission No. 58:

Applicant does not know the Opposer's goods and services consumers and thus denies same.

Request for Admission No. 59:

Applicant's Goods may be encountered by the same or similar class of purchasers as those who are familiar with, or interested in, Opposer's Goods and Services.

Answer to Request for Admission No. 59:

Applicant does not know the class of purchasers who are familiar with or interested in Opposer's Goods and Services and thus denies same.

Request for Admission No. 60:

Consumers encountering Applicant's Goods are likely to believe that Opposer is the source of such goods and services.

Answer to Request for Admission No. 60:

Denied. Applicant's goods are directed to electrical components and the dominant portion of Applicant's mark is "HYBRID GREEN" with "UPS" being a standard abbreviation for "uninterruptable power supplies" which is one of Applicant's proposed goods, and does not believe that consumers encountering Applicant's goods are likely to believe that Opposer is the source of such goods and services, and therefore denies same.

Request for Admission No. 61:

Consumers encountering Applicant's Goods are likely to believe that Opposer has authorized such goods and services.

Answer to Request for Admission No. 61:

Denied. Applicant's goods are directed to electrical components and the dominant portion of Applicant's mark is "HYBRID GREEN" with "UPS" being a standard abbreviation for "uninterruptable power supplies" which is one of Applicant's proposed goods, and does not believe that consumers encountering Applicant's goods are likely to believe that Opposer has authored such goods and services and therefore denies same.

Request for Admission No. 62:

Applicant's use of the Proposed Mark in connection with Applicant's Goods will create a likelihood of mistake, deception, or confusion with Opposer's Marks for Opposer's Goods and Services.

Answer to Request for Admission No. 62:

Denied. Applicant's goods are directed to electrical components and the dominant portion of Applicant's mark is "HYBRID GREEN" with "UPS" being a standard abbreviation for "uninterruptible power supplies" which is one of Applicant's proposed goods and thus does not believe there would be a likelihood of mistake, deception or confusion with Opposer's marks for Opposer's goods and services, and therefore denies same.

Request for Admission No. 63:

Applicant selected the Proposed Mark with the intent to cause a likelihood of mistake, deception, or confusion with Opposer's Marks for Opposer's Goods and Services.

Answer to Request for Admission No. 63:

Denied. Applicant selected the proposed mark with the dominant portion being "HYBRID GREEN" and the letters "UPS" being a somewhat descriptive term for the well known abbreviation "uninterruptible power supplies" which is one of Applicant's proposed goods and therefore denies same.

Request for Admission No. 64:

Opposer advertises its products extensively using Opposer's Marks.

Answer to Request for Admission No. 64:

Denied. Applicant is not aware of any extensive advertising of Opposer's "products" and therefore must deny same.

Request for Admission No. 65:

Opposer has used the mark UPS nationwide since 1907.

Answer to Request for Admission No. 65:

Denied. Applicant has no knowledge of the date at which Opposer has initiated its use of the letters “UPS” as a trademark or service mark and therefore denies same.

Request for Admission No. 66:

Opposer’s Marks are strong marks, as that term has been used in cases construing the Lanham Act.

Answer to Request for Admission No. 66:

Denied. Applicant does not understand the terminology “strong marks”. Applicant admits that there are a number of Registrations owned by Opposer that use the letters “UPS”, however, it is not believed that such are in any way related to Applicant’s proposed electrical component goods and therefore denies same.

Request for Admission No. 67:

Opposer’s Marks are famous marks, within the meaning of Section 43(c) of the Lanham Act.

Answer to Request for Admission No. 67:

Denied. Applicant does not know how “famous” Opposer’s marks are and must leave Opposer to provide evidence of such and therefore denies same.

Request for Admission No. 68:

Applicant's use of the Proposed Mark for Applicant's Goods will lessen the capacity of Opposer's Marks to distinguish Opposer's Goods and Services from those of others.

Answer to Request for Admission No. 68:

Denied. Applicant found numerous Registered marks using the letters "UPS" which are in effect and being used by third parties and thus does not believe that Applicant's use of the proposed marks will lessen the capacity of Opposer's marks to distinguish Opposer's goods and services from those of others to the extent that the letters "UPS" are a well known abbreviation of "uninterruptible power sources" and therefore denies same.

Request for Admission No. 69:

Applicant's use of the Proposed Mark for Applicant's Goods will suggest a connection or affiliation between Opposer and Applicant.

Answer to Request for Admission No. 69:

Denied. Applicant does not believe that Opposer uses the letters "UPS" on any of Applicant's proposed goods with the dominant portion of Applicant's mark being "HYBRID GREEN". Applicant does not believe that there would be any

suggestion or connection or affiliation between Opposer and Applicant which can be suggested and therefore denies same.

Request for Admission No. 70:

Applicant disclaimed the “UPS” portion of its mark as descriptive.

Answer to Request for Admission No. 70:

Admitted.

Request for Admission No. 71:

Applicant is not affiliated with Opposer.

Answer to Request for Admission No. 71:

Admitted.

Request for Admission No. 72:

Applicant is not sponsored by Opposer.

Answer to Request for Admission No. 72:

Admitted.

Request for Admission No. 73:

Applicant has no contractual relationship with Opposer that bears on the Proposed Mark or Opposer's Marks.

Answer to Request for Admission No. 73:

Admitted.

Request for Admission No. 74:

Applicant has not sought authorization from Opposer to use or register the Proposed Mark.

Answer to Request for Admission No. 74:

Admitted.

Request for Admission No. 75:

Applicant has not obtained authorization from Opposer to use or Register the proposed mark.

Answer to Request for Admission No. 75:

Admitted.

Request for Admission No. 76:

The Proposed Mark is similar to Opposer's Marks.

Answer to Request for Admission No. 76:

Denied. Applicant's proposed mark is "HYBRID GREEN UPS" with the dominant portion of the mark being "HYBRID GREEN" and the letters "UPS" only designating a standard abbreviation for the words "uninterruptible power supplies" and thus denies same.

Request for Admission No. 77:

The Proposed mark is confusingly similar to Opposer's Marks.

Answer to Request for Admission No. 77:

Denied. The proposed mark has the dominant portion "HYBRID GREEN" for dissimilar goods when taken with respect to any goods or services of the Opposer and thus is not believed to be confusingly similar.

Request for Admission No. 78:

The Proposed Mark ends in the term "UPS".

Answer to Request for Admission No. 78:

Admitted.

Request for Admission No. 79:

Each of Opposer's Marks includes the term "UPS."

Answer to Request for Admission No. 79:

Admitted.

Request for Admission No. 80:

Registration of the Proposed mark would damage Opposer.

Answer to Request for Admission No. 80:

Denied. Applicant's goods are directed to electrical components which are not believed to be incorporated with any of the products of Opposer as provided in the Registrations submitted by Opposer.

Respectfully submitted,
For: POWERTECH INDUSTRIAL CO., LTD.

Apr. 13, 2009
Date
APR. 13, 2009

Yu-Lung Lee
Yu Lung Lee
Assistant Manager
General

For: ROSENBERG, KLEIN & LEE

4/16/09
Date

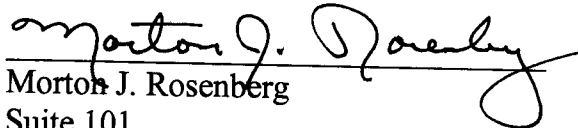
Morton J. Rosenberg
Morton J. Rosenberg

Attorneys for Applicant
POWERTECH INDUSTRIAL CO., LTD.

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing Applicant's Answer to Opposer's first Requests to Applicant for the Production of Documents and Things was served this 16th day of April 2009 via first class mail, postage prepaid, addressed to:

Stephen M. Schaetzel, Esquire
John P. Sheesley, Esquire
Elizabeth M. Fox, Esquire
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